

REMARKS

Claims 1, 2, 4 and 6 are pending. By this response, claims 4 and 6 are amended and 5 and 7 cancelled. Reconsideration and allowance based on the above amendments and following remarks are respectfully requested.

Allowed Claims

Applicant appreciates the indication of claims 1 and 2 as being allowed.

Prior Art Rejections

The Office Action rejects claims 4-7 under 35 U.S.C. § 102(b) as being anticipated by Numata (U.S. Patent 5,831,953) and claims 4-7 under 35 U.S.C. § 102(b) as being anticipated by Okajima (U.S. 2002/0051410 A1). These rejections are respectfully traversed.

Numata

Numata teaches a device for detecting the thickness of a substrate of an optical disc. In performing this task, a focal search is performed for a laser beam to obtain an optical focal point. An error signal is obtained when the focal point passes through the surface of the recording layer. The number of layers is then detected based on the error signal and focal point.

In determining the focal point, the Numata system realizes that temperature affects the laser characteristics. Therefore, the output power of the laser is measured and the laser is adjusted to maintain constant output power. See Column 11, lines 4-11 and 50-65. The Examiner considers the monitoring of the laser output power due to temperature affects as the same as measuring the ambient temperature in proximity to the disc and adjusting the lens focusing values and thus position according to the ambient temperature.

Applicant respectfully submits that Numata does not perform ambient temperature measurement. Numata measures the output power because Numata recognizes that temperature will affect the laser, but the temperature is not measured. Further, the output level is measured so as to keep the power constant, not to adjust values used for positioning the lens. Finally, the

temperature discussed in Numata is associated with the area of the laser and not in proximity to the disc.

Thus, Numata fails to teach, *inter alia*, an ambient temperature measuring device that measures the ambient temperature in proximity to the disc, where the initial data values are adjusted according to the measured ambient temperature, as recited in claim 4 and measuring the ambient temperature in proximity to the disc, where the initial data values are adjusted according to the measured ambient temperature, as recited in claim 6.

Therefore, in view of the above, it is respectfully requested that the rejection under 35 U.S.C. § 102(b) in view of Numata be withdrawn.

Okajima

Okajima teaches a focus search apparatus. The apparatus drives the optical pickup in a focusing direction with a gradually increasing amplitude in which the driving is stopped when the optical pickup reaches a range within which focus servoing is possible. In performing the focusing it is determined whether the amplitude and position of the focus signal is sufficient to place the optical pickup in the appropriate range. If not, then the amplitude and position are adjusted and a determination is again made.

In determining the initial range, various factors are considered that would affect the optical pickup including environmental temperature, secular change etc. Thus, taking these factors into consideration, the amplitude of the focus signal is set initially greater than normal so that the focus will initially be set close to its focal point allowing for a quicker focusing operation. See paragraphs 8-11.

Although, the setting of the amplitude is made in consideration of outside factors, including temperature, it appears to be a generalized consideration as no measurements are obtained for temperature or other factors. This generalized consideration allows the settings to

be made within the approximate range more accurate than if the outside factors were not considered.

Further, these outside factors (temperature) are not used to adjust initial data values. The outside factors in Okajima are used to approximate the initial parameters. Adjusting afterwards is performed on a gradual amplitude increase from the initial set value.

Therefore, Okajima fails to teach, *inter alia*, an ambient temperature measuring device that measures the ambient temperature in proximity to the disc, where the initial data values are adjusted according to the measured ambient temperature, as recited in claim 4 and measuring the ambient temperature in proximity to the disc, where the initial data values are adjusted according to the measured ambient temperature, as recited in claim 6.

Therefore, in view of the above, Applicant respectfully submits that Okajima fails to teach each and every feature of independent claims 4 and 6. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Conclusion

For at least the reasons above, it is respectfully submitted that claims 1, 2, 4 and 6 are distinguishable over the cited art. Favorable consideration and prompt allowance are earnestly solicited.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad J. Billings, Reg. No. 48,917 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No. 10/686,599
Amendment dated February 6, 2007
After Final Office Action of November 6, 2006

Docket No.: 1163-0473P
Page 8 of 8

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: February 6, 2007

Respectfully submitted,

By *C. Richard Anderson* 48,917
for D. Richard Anderson
Registration No.: 40,439
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant